

AUG 22 2011

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

Webbhouse Sims
PLAINTIFF,

vs.

COMPLAINT

* AMENDED *

Windstream Communications
1720 Galleria Blvd.
Charlotte NC 28270

CASE NO. 3:11-CV-00308-MOC
- DSC

DEFENDANT(S).

Jennifer Buck / Josh Imhoff / Leslie Hannell / Sue Imhoff

A. JURISDICTION

This action is brought pursuant to Title VII of the Civil Rights Act of 1964 as amended, for employment discrimination. Jurisdiction is specifically conferred on this Court by 42 U.S.C. Section 2000e(5). Equitable and other relief are also sought under 42 U.S.C. 2000e(5)(g). Jurisdiction is also based on 28 U.S.C. Sections 1331, 1343 and 42 U.S.C. Sections 1981 et seq. Where employment discrimination is based upon age is alleged, jurisdiction is conferred by 29 U.S.C. Sections 626(c)(1) and 626(e) and appropriate relief is also sought.

B. PARTIES

1. Name of Plaintiff:
Address:

J. Webbhouse Sims
6205 Red Rose Ct.
Charlotte NC 28269

2. Name of first Defendant: Joe Intihon
Address: 1720 Gellert Blvd.
Charlotte NC 28270

3. Name of second Defendant: Josh Intihoff
Address: 1720 Gellert Blvd.
Charlotte NC 28270

4. Name of fourth Defendant: Jennifer Buck
Address: 1720 Gellert Blvd.
Charlotte NC 28270

(Use additional sheets if necessary.)

Leslie Hennell
1720 Gellert Blvd.
Charlotte NC 28270

C. NATURE OF CASE

1. The address at which I sought employment or was employed by the defendant(s) is:

1720 Gellert Blvd.
Charlotte NC 28270

2. The discriminatory acts occurred on or about:

July 21, 2010 (Month, Day, Year)

3. I filed charges with the Equal Employment Opportunity Commission regarding the defendant's discriminatory conduct on or about:

October 15, 2010 (Month, Day, Year)

4. The Equal Employment Opportunity commission sent the attached "Notice of Right to Sue" which I received on:

March 26, 2011 (Month,Day,Year)
(Please attach the "Notice of Right to Sue" to this complaint.)

5. The discriminatory acts that are the basis of this suit are:

- a. _____ Failure to employ me.
- b. _____ Failure to promote me.
- c. ☒ Termination of my employment.
- d. _____ Demotion.
- e. _____ Denied equal pay/work.
- f. _____ Sexual harassment.
- g. _____ General harassment.
- h. ☒ Other acts (Be specific: Attach an additional sheet if necessary)

Racial Discrimination

6. Defendant's conduct is discriminatory with respect to:

- | | | | |
|--|----------|----------|--------------------|
| a. <input checked="" type="checkbox"/> | my race | d. _____ | my religion |
| b. <input checked="" type="checkbox"/> | my color | e. _____ | my national origin |
| c. _____ | my sex | f. _____ | my age |

7. I believe that the defendant is still committing these acts against me.

YES ☒

NO _____

D. CAUSE OF ACTION

1. I allege that the defendant has discriminated against me and that the following facts form the basis for my allegations:

a. (1) Count I: September 2009 - Jan. 2010

- (2) Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing any legal authority. Use additional sheets if necessary.)

Please see attached statement

b. (1) Count II: July 21, 2010

- (2) Supporting Facts:

Please see attached statement

E. INJURY

How have you been injured by the actions of the defendant(s)?

N/A

F. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action? YES___ NO ✓

If your answer is "YES", describe each lawsuit. (If there are more than one lawsuits, describe additional lawsuits on additional separate pages, using the same outline.)

1. Parties to previous lawsuits:

Plaintiff(s): N/A

Defendant(s): N/A

2. Name of court and case or docket number:

N/A

3. Disposition (for example, was the case dismissed? Was it appealed? Is it still pending?)

N/A

4. Issues raised:

N/A

5. When did you file the lawsuit? N/A

Date: Month/Year

6. When was it (will it be) decided? N/A

Have you previously sought informal or form relief from the appropriate administrative officials regarding the acts complained of in Part D?

YES ☒ NO ☐

If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.

I filed charges with the E.E.O.C and was willing
to go through mediation, but the employer denied.

G. REQUEST FOR RELIEF

I believe I am entitled to the following relief:

- Pain & suffering
- lost wages & back pay
- emotion distress pay
- new position within the company

JURY TRIAL REQUESTED

YES ☐ NO ☐

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C. §1621.

Executed at _____ on _____
(Location) (Date)

Signature

August 22, 2011

To whom it may concern:

I would like to amend my current complaint Civil No. 3:11-CV-00308-MOC-DSC. I previously stated only two accounts in which I was retaliated against by Windstream Communication the first on January 15, 2010 and the second on January 27, 2010. However at this time I would like to focus more so on the racial discrimination I experienced while employed by Windstream which lead to and ended with termination. I was employed by Windstream Communications on July 31, 2006 I was a diligent and faithful worker with them for almost 4 years. While employed by them I received all positive annual reviews stating I "Meet Expectation" in all areas and my random periodic call monitor evaluation scores were good as well. Late 2009 around the 10th month I assisted a customer with establishing new service for their business. I had spoken with the customer on several occasions recommending services, answering questions and providing quotes. Eventually the customer decided to place an order with me however didn't have all the necessary information for installation. The customer was instructed to call me back with the missing information. When the customer called back with the missing information I was out of the office due to a medical emergency. Upon returning to the office I contacted the customer back and they advised me they had called back to provide the missing information and also added some other services to the original request. The customer provided the name of the representative Leslie White (White Business Sales Representative) they had spoken with and also advised the representative provided them with a new order number. Per Windstreams policy and guidelines if a customer wants to add more services or modify a existing service request you are to place the changes on the same order and the representative who made the additional sales/ if any is then advised to add their seller number also called sellp beside the services they added or up-sold. In this case the representative/Leslie White cancelled my order completely out of the system and placed an entire new order which consequently resulted in me losing credit for the items I sold and gave herself the benefit of gaining more then what she was entitled to. The representative also failed to document the reason she had cancelled my order and dishonestly failed to document the replacement order number, which is also a requirement per Windstream policy and guidelines. After discovering the unethically behavior I immediately reported it to my immediate supervisor Sue Intihar (White Supervisor). Several days later after hearing no feedback I sent a follow-up email and also CC: the acting Manager Josh Imhoff (White Manager), per my read receipt it shows Josh read the email but failed to look into the matter. Several months past and the issue still had not been resolved so I went to the next person in management the Director of the Business Department Leslie Harrell (White Director). A meeting was held early December with me, Sue Intihar, Josh Imhoff, and Leslie Harrell. Within the meeting I provided all the necessary documents to support my findings.

During the meeting Josh Imhoff & Sue Intihar denied being notified of the situation. At this time I provided copies of the read receipt which showed/proved Josh had read the email however Sue Intihar had never opened hers. The meeting concluded with me being told the matter would be investigated and someone would follow-up with me the following business day. The next day instead of me being provided with a resolution, Josh requested another copy of the same documents that were just provided in the meeting. Another several weeks past and I still had not heard any feedback so I escalated the complaint to the next person within the management ladder which would have been Human Resources. I emailed Jennifer Buck (White HR representative) advising of all the previous attempts to get the situation resolved and she advised me she would investigate it and follow-up with me in several days. Disappointingly I never received a follow-up from her either, consequently almost immediately following me notifying her of this matter is when the retaliation began against me. I do understand a company has to keep some things confidential especially when it comes to disciplinary action but I feel this matter was never investigated or addressed because several other incidents of similar behavior were reported against this same individual (Leslie White). I feel I have been racial discriminated against because on July 21, 2010 I was terminated from Windstream and accused of similar behavior. Within my years at Windstream I was never written up or coached about stealing sales, however the same behavior has been reported on several occasions for Leslie and she is still employed with the company at this time.